

ZONING BOARD OF APPEALS
MINUTES
APRIL 25, 2017

The meeting was called to order by Acting Chairperson John Micheli at 7:00 p.m. ZBA Members Gregory Constantino, Matthew Jones and Thomas Whalls were present. Chairperson Rick Garrity and ZBA Members Adam Miller, Chip Miller and Reed Panther were excused. Also present were Building and Zoning Official Steve Witt, Associate Planner Kelly Purvis and Recording Secretary Barbara Utterback.

Acting Chairperson Micheli explained the procedures of the Zoning Board of Appeals.

ZBA Member Jones moved, seconded by ZBA Member Constantino, to approve the minutes of the March 28, 2017 meeting. The motion carried unanimously by voice vote.

On the agenda was a continuation of a public hearing from April 11, 2017 regarding the property at 710 Meredith Place.

CONTINUED PUBLIC HEARING – 710 MEREDITH PLACE

DAVID HARTSELL AND WENDIE REECE ARE REQUESTING APPROVAL OF VARIATIONS FROM THE GLEN ELLYN ZONING CODE AS FOLLOWS: 1. SECTION 10-4-1(C) TO ALLOW AN ACCESSORY STRUCTURE TO REMAIN ON A LOT WHICH DOES NOT HAVE A PRINCIPAL STRUCTURE. 2. SECTION 10-5-4(A)4(c) TO ALLOW AN ACCESSORY STRUCTURE TO REMAIN AT A DISTANCE OF APPROXIMATELY 1.38 FEET SOUTH OF THE REAR PROPERTY LINE AND APPROXIMATELY 2.08 FEET EAST OF THE SIDE PROPERTY LINE IN LIEU OF THE MINIMUM REQUIREMENT OF 3.1 FEET FROM EACH PROPERTY LINE. 3. ANY OTHER ZONING RELIEF NECESSARY TO CONSTRUCT THE PROJECT AS DEPICTED ON THE PLANS PRESENTED OR REVISED AT THE PUBLIC HEARING OR AT A PUBLIC MEETING OF THE VILLAGE BOARD.

(David Hartsell and Wendie Reece, owners)

Staff Presentation

Associate Planner Kelly Purvis stated that David Hartsell and Wendie Reece are the owners of 710 Meredith Place and 714 Meredith Place. She stated that Mr. Hartsell appeared before the ZBA on April 11, 2017 for the first public hearing regarding a request for a variation to leave a garage on a lot without a principal structure at 710 Meredith Place. She stated that the subject property is in the R2 Zoning District at the end of a dead end road and is the only one of nine (9) homes that has not been rebuilt or remodeled. Ms. Purvis stated that the petitioners purchased the property in 2016 with the intention of demolishing the residence which is beyond simple repair. She stated that at the April 11th meeting, Mr. Hartsell stated that the foundation of the house is cracked and there is mold growing inside and outside. She stated that the petitioners have gutted the house and donated all of the salvageable materials for re-

use. She stated they have requested a variation from the Village Code to leave the garage which was built in 1997 on the lot without a principal structure. She added that the petitioners felt that additional consideration should be given since the garage was permitted and inspected by the Village. She stated that there was also some conflict regarding the side yard variation being requested as the County improperly recorded an alley vacation which would have given the petitioners an additional 7-1/2 feet to the west of the existing property line. She added that a specific timeframe for redevelopment has not been provided. She added that the ZBA Members expressed concerns about the location of the garage so close to the rear property line and life safety issues regarding the garage being so close to the fence that it might create an obstacle in the event of a fire. She stated that several of the ZBA Members were supportive of the variation request to leave the accessory structure on a lot without a principal structure but felt that they could not support a variation if the garage remained in the same spot. She stated that others expressed concern that granting the variation would allow the garage to be built in the same place in the future and/or would allow the garage to remain where it stands in perpetuity. Ms. Purvis stated that the Zoning Board of Appeals continued the meeting to allow the petitioner to inquire about the cost to move the garage into conformance with Village code which would be approximately 3.1 feet from each of the property lines and the petitioner has returned this evening with information regarding the cost to move the garage.

Petitioners' Presentation

David Hartsell, the petitioner, of 714 Meredith Place, Glen Ellyn, Illinois stated he had previously been asked to investigate what it would cost to move the garage which is currently considered to be a legally nonconforming use. Mr. Hartsell stated he had gotten an estimate of thousands of dollars to move the garage over 18 inches one way and 12 inches another way and he described that process. Mr. Hartsell stated there are two issues with the location which are the rear setback and the side setback. He stated that he believes he should get the benefit of the doubt on the side setback because of the vacated alley issue. Mr. Hartsell displayed a 1993 plat of survey of the subject property which was used to build the garage in 1997. He indicated the area of the alley which is 15 feet wide and added that the Village's position is that the County is incorrect regarding not vacating the alley. He stated that the Village has told him on several occasions that they will take that situation into consideration if he ever needs a variation for lot coverage ratio, for example, and added that the Village did the same thing with another property on Riford Road that had the same problem with this alley. He added that he believes he should also have that benefit and that if he has the benefit of the 7-1/2 feet, there will be no issue with the side setback. Mr. Hartsell then displayed a plat of survey from 2016 that shows a 15-foot alley. He added that a complete reconstruction of the street is also shown with 7-1/2 feet on one side of the street and 7-1/2 feet on the other side of the street which is consistent with the Village's prior ordinance. He also stated that a wooden fence was built years ago in the middle of the alley which is a bit closer to one side. He stated the neighbors in this area treat this alley as being equally divided.

Mr. Hartsell displayed a photo of the subject garage and stated that it sits at an angle, adding that at the corner there is approximately 3-1/2 feet from the edge of the garage to the fence. He added as one walks east behind the garage, the space narrows down to approximately 1-1/2 feet. He also stated that there is only one of the four corners of the garage that is not where it is supposed to be. He asked the ZBA for support given the history and unique circumstances surrounding the property. He added that it is not practical given the cost to have the garage moved and stated that the garage would not need to be moved if a new house was built on the property. He also stated that the only difference between a developer building a new house and the petitioner wanting to keep the garage is that the developer would have to complete the project in 18 months. Mr. Hartsell stated that the neighbors support them removing an eyesore from the neighborhood and he feels it is a shame to put garbage in a landfill that does not need to be there. He added that he has recycled as much as possible from the house on that lot.

Responses to Questions from the Zoning Board of Appeals

ZBA Member Whalls asked if the subject garage can remain on the lot per the existing code if the petitioners build a new home in the future. Mr. Witt responded that the garage should not exist when the principal structure is demolished, adding that the ZBA will grant or not grant the garage remaining in its current position which would also qualify that variation with a time constraint. Mr. Witt stated that Village Attorney Mathews indicated that a time constraint could be put on the property which could be that the garage is removed or relocated to conform at the time of sale of the property.

Mr. Hartsell stated that he was supportive of demolishing the garage and building a new conforming garage when a new garage is needed on the lot, however, did not feel it is fair for him to have to tear down the garage if it is still in good condition. He also stated that if he sold the property, he would not have a problem with requiring the buyer to bring the garage into conformance. He also stated that he has no problem with the variance running with this particular structure and not with the land.

ZBA Member Jones stated that the petitioner wants to keep the garage out of the landfill, however, stated he will take it down in the future when he sells his property at which time it will go into a landfill. Mr. Hartsell responded to ZBA Member Jones that he was not aware that the garage was nonconforming when he purchased the home. Ms. Purvis responded to ZBA Member Jones that if the petitioner had bought the subject lot and it was titled the same as his other lot, it would be considered one lot. ZBA Member Jones also asked if the petitioner would be able to keep the structure and Ms. Purvis replied no, because he already has a detached garage on his existing home at 714 Meredith Place and only one accessory structure of each type is allowed. ZBA Member Jones asked if the petitioner would be able to keep the structure if it was a shed or a playhouse and Ms. Purvis replied no, adding that a shed can only be 150 square feet and the garage cannot be called anything other than a garage. ZBA Member Jones

then stated he is having a hard time seeing a hardship although mistakes were made when purchasing the property such as not knowing that the alley was not vacated properly and that the petitioner did not know he could tear the house down but would be unable to keep the garage. Mr. Hartsell stated that he knew there was an issue with the alley which is unresolved. Mr. Witt stated that previous practice is that everything on a new construction property is required to be brought into compliance in which case the garage on this property would be required to be torn down or otherwise brought into compliance.

Mr. Hartsell responded to ZBA Member Constantino that the fence on the rear property line was put up by the owners who live behind on St. Charles Road. ZBA Member Constantino stated he had asked that question because now may be a good time to handle the relocation of that fence.

Mr. Hartsell clarified that the subject garage is a legally nonconforming use and if he wanted to build a new house and keep the garage, he could do that. Acting Chairperson Micheli responded that there is the current legally nonconforming use as it is now with the principal structure and then there is the standard practice of bringing everything into compliance when one builds a new structure.

Persons in Favor of or in Opposition to the Proposed Request

Nancy Lantz, 120 Kenilworth, Glen Ellyn, IL was in favor of the proposed request as the petitioners are taking down an eyesore and leaving up a building in good condition for a period of time.

Findings of Fact

ZBA Member Constantino stated that this meeting is a continuation of a meeting held on April 11, 2017 regarding the property at 710 Meredith Place. He stated that Kelly Purvis, Associate Planner, Steve Witt, Building and Zoning Official, David Hartsell, owner of the subject property, and Nancy Lantz, a resident of Glen Ellyn all spoke regarding the subject property. He also stated that the meeting was continued to allow the petitioner to research the cost to relocate the garage to permitted back and side yard setback distances. ZBA Member Constantino stated that the petitioner would like to keep a garage on a lot without a principal structure as the house will be demolished. He stated that the petitioner also seeks a variance to allow the existing setbacks to remain in place at 1.38 feet and 2.0 feet rather than the 3.1 feet which is minimally required. He stated at the prior meeting, several of the ZBA members were amenable to allowing an accessory structure to remain without a principal structure but objected to the setback variances and the long-term effect on the property. He stated that the petitioner has researched the cost of relocating the garage. ZBA Member Constantino stated that the petitioner, David Hartsell, lives at the adjoining property to the east of 714 Meredith Place. Mr. Hartsell has researched the cost of moving the garage approximately 10-18 inches

which would be thousands of dollars. Mr. Hartsell is seeking relief to the side yard setback because of the issue involving the vacated alley and whether the County and/or the Village properly addressed the vacation and gave the property to the correct property owner. He stated it appears that the Village thought one piece of the eastern half of the property should go to 710 Meredith Place, however, the County believes that the vacated alley sits in the subdivision to the west and believes that the subdivision is vacated. ZBA Member Constantino also stated that the Village reconstructed Meredith Place and located the street into the easterly one-half of the vacated alley. He stated that the fence along the westerly property line that currently exists is approximately 3-1/4 feet east of the boundary line and does not create any safety hazards if emergency vehicles have to access the property. He stated that the rear portion of the garage in relation to the property line and a portion of the rear garage wall is less than 3 feet from the fence whereas on the westerly portion of the wall it is greater than 3 feet. ZBA Member Constantino stated that staff is currently researching conflicting information on the issue regarding whether a new construction of a house on the property, would or would not require the garage to be brought in to conformance. Mr. Hartsell has stated he would like the same opportunity that a builder has without a time constraint. Mr. Hartsell would like to improve the subject lot which is an eyesore in the neighborhood, the neighbors have approved the petition, he is trying to minimize the environmental impact of the garage and he noted the extreme cost to relocate the minimal distance from the side yard to the rear yard. Three options were to keep the garage as it is now without restrictions or conditions, to relocate or remove the garage or allow the garage to stay for the time constraint until the property is sold or developed by Mr. Hartsell. Mr. Hartsell had indicated that he would agree to provisions that would allow the garage to remain as located but require compliance when sold or built.

ZBA Member Whalls moved, seconded by ZBA Member Jones, to accept the findings of fact. The motion carried unanimously by voice vote.

Comments from the Zoning Board of Appeals

ZBA Member Constantino stated he would be in favor of recommending approval of the two variations being requested. He stated that at the previous ZBA meeting, the pros and cons of the building in relation to the principal structure were discussed and he is persuaded that the circumstances of a variation would be in order for that purpose. He stated that as far as the variations for side and rear yard setbacks, the cost to move the garage was stated by Mr. Hartsell to be thousands of dollars which is a hardship that may have been partially caused by the manner in which the garage was originally constructed. He stated that the time to object to the location should have been at that time. ZBA Member Constantino was in favor of the variations with a condition that if at any time the property is sold or developed by Mr. Hartsell or another owner, the garage would be required to be in compliance with the code.

ZBA Member Jones stated he does not have an issue with the setback as it is unclear exactly how errors regarding the vacation had been caused. He stated that he does not see a hardship

in allowing the garage to remain and, therefore, was not in favor of the variation requests.

ZBA Member Whalls felt that DuPage County, the surveyors and the Village of Glen Ellyn inspectors made errors regarding this property. He felt that a stipulation should be included in an ordinance that if the property is developed, the garage must be removed so that the Village does not receive additional solo garage requests in the future.

Acting Chairperson Micheli stated that when looking at the plat of survey from the purchase, it is clear where the property lines are. He stated that if the petitioner would like to purchase half of the alley, he would have some case with the County. Mr. Witt responded to Acting Chairperson Micheli that the property owner at Meredith Place and Riford Road believed they owned the 7-1/2 feet in the alley but learned that they did not which is different from the current variation request. Ms. Purvis stated that Planning and Development Director Staci Hulseberg stated that the Village went to the County and tried to fix the situation knowing that that property was vacated to the adjacent homeowners. She stated that the County stated the Village was not clear so they intended to leave it as is and the Village would need to fix the situation. Ms. Purvis stated that Ms. Hulseberg felt that the Village should be more amenable to granting variations in this type of case. Acting Chairperson Micheli stated that the plat of survey from one year ago shows that they do not have half of the alley. He added that the Village should be generous in their considerations with these types of situations.

A motion was made to close the public hearing and carried by voice vote.

Motion

ZBA Member Whalls moved, seconded by ZBA Member Constantino, that the Zoning Board of Appeals recommend approval of the requested variations based on the recommendation that the petitioners have shown great effort to show past issues with the survey causing a hardship to keep the garage in place. The petitioner also agrees to a motion to put a stipulation into the variation to remove or relocate the garage when and if a permit is requested for a new structure not to exceed ten (10) years from the granting of the variation or sooner if the property is sold based on the following conditions: 1. The structure must be removed within ten (10) years or brought into compliance. 2. If the subject property is sold, the garage must be removed or brought into compliance before closing and issuance of the tax transfer stamp. 3. The structure must be removed or brought into compliance prior to new construction.

The motion carried unanimously with four (4) "yes" votes as follows: ZBA Members Whalls, Constantino, Jones and Acting Chairman Micheli voted yes.

Trustee Report

No Trustee Liaison report was given.

Chairperson Report

No Chairperson Report was given.

Staff Report

Associate Planner Kelly Purvis stated that 675 Revere will be on the agenda on May 9, 2017 for a side yard variation for an addition. She also stated that within the next couple of months, ZBA packets will be available for the members online rather than being delivered.

ZBA Member Whalls moved, seconded by ZBA Member Jones, to adjourn the meeting at 8:43 p.m. The motion carried unanimously by voice vote.

Submitted by:

Barbara Utterback
Recording Secretary

Steve Witt
Building and Zoning Official

Kelly Purvis
Associate Planner